

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 16, paragraph 2 of the arguments, filed 6/3/2009, with respect to 16, 17, 19-20, and 63-65 have been fully considered and are persuasive. The 35 USC 102 (b) and 103(a) rejections of claims 16, 17, 19-20, and 63-65 have been withdrawn.
2. Applicant's arguments filed 6/3/2009 have been fully considered but they are not persuasive.
3. The applicant argues the McKenzie does not teach the repair of an open wound. The applicant claims bringing together of tissue. Tendons are a type of type. Furthermore, a wound that slices through the flesh and through the underlying tendons is considered an open wound. During a surgical procedure, the cutting to the tissue to access a tendon can also be considered an open wound. Therefore, McKenzie reads on the limitation of "an open wound".
4. Claims 1-26, 60-65, and 74-105 are pending.

### ***Response to Amendment***

5. An amendment paper must include the entire text of each claim being changed by such amendment paper and of each claim being added by such amendment paper. For any claim changed by the amendment paper, a parenthetical expression "amended," "twice amended," etc., should follow the claim number. Each changed patent claim and each added claim must include markings pursuant to paragraph (d) of

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this section, except that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.

6. Status of claims and support for claim changes . Whenever there is an amendment to the claims pursuant to paragraph (b) of this section, there must also be supplied, on pages separate from the pages containing the changes, the status ( i.e., pending or canceled), as of the date of the amendment, of all patent claims and of all added claims, and an explanation of the support in the disclosure of the patent for the changes made to the claims. (d) Changes shown by markings . Any changes relative to the patent being reissued which are made to the specification, including the claims, upon filing, or by an amendment paper in the reissue application, must include the following markings: (1) The matter to be omitted by reissue must be enclosed in brackets; and (2) The matter to be added by reissue must be underlined, except for amendments submitted on compact discs ( § § 1.96 and 1.821(c)). Matter added by reissue on compact discs must be preceded with “ <U > ” and end with “ < /U > ” to properly identify the material being added.

7. Numbering of patent claims preserved. Patent claims may not be renumbered. The numbering of any claim added in the reissue application must follow the number of the highest numbered patent claim.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 74 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by McKenzie publication "An experiment Multiple Barbed Suture For The Flexor Tendons Of The Palm And Fingers" (McKenzie).

10. Claims 74 and 75, Mckenzie publication teaches a method for holding together two tissue portions wherein the portions are sewn with barb sutures as recited in the claim. The page labeled 445, figure 10 clearly discloses the method steps as recited. Page 442, figure 3 shows where the suture has been severed.

11. Concerning claim 16 and 17, there is nothing in the body of the claim that limits the recitation to a facelift procedure. A path is always selected before suturing begins and a needle is passed through the tissue. McKenzie teaches all of the other method steps.

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 9-15 and 76-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKenzie publication "An experiment Multiple Barbed Suture For The Flexor Tendons Of The Palm And Fingers" (McKenzie).

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14. The Mckenzie publication teaches a method for holding together two tissue portions wherein the portions are sewn with barb sutures as recited in the claim. The page labeled 445, figure 10 clearly discloses the method steps as recited. Page 442, figure 3 shows where the suture has been severed. It should be noted that Mckenzie fails to disclose the use of a suture with a diameter range of 100-500 microns with barbs of 30-100 microns. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use sutures with the claimed range limitations, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

15. As to claims 10-17, 19-20, 63-65, and 76-84 are unpatentable over Mckenzie. Concerning claim 10 it is well known in the to provide suture-needle combinations having pullout characteristics. The USPTO classification system class/subclass (606/227) has many patents with this feature. It would have been obvious at the time of applicant's invention to form McKenzie's with a pull out suture-needle combination. Concerning claims directed to the barbs layout, such recitation does not affect the method steps in this instance and such modification would have been obvious to one having ordinary skill in the art.

***Allowable Subject Matter***

16. Claims 1-8, 16-26, 60, 61, 63-65 and 85-105 are allowable over the prior art of record.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./  
Examiner, Art Unit 3734

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3734